



**IN THE COURT OF SPECIAL JUDGE UNDER THE PROTECTION OF
CHILDREN FROM SEXUAL OFFENCES ACT, 2012 BORIVALI
DIVISION, DINDOSHI, MUMBAI.**

ANTICIPATORY BAIL APPLICATION 1845 OF 2022

(CNR NO.: MHCC05-006160-2022)

1. Chaya Sanjay Jadhav

R/at. Bhuddawadi, Kondhye,
Ratnagiri, Maharashtra 415711

2. Shivani Sudhir Tambe

R/at. Bhuddawadi, Bahiravali,
Khed, Ratnagiri, Maharashtra 415 711

..Applicants

V/s.

The State of Maharashtra,

(At the instance of Malad
Police Station vide C.R.No.690/22)

...Respondent/State.

Appearance:-

Shri. Arvind Yadav, Advocate for the accused.

Shri. Ambekar, APP for the State/respondent.

CORAM : HER HONOUR ADDL. SESSIONS JUDGE

SMT.S.M.TAKALIKAR, (C.R.NO.12)

DATE : 29.11.2022

ORDER

Present application is filed by the accused/applicant under Section 438 of Code of Criminal Procedure for Anticipatory bail in connection with C.R.No 690 of 2022 registered with Malad Police Station for offences punishable under Section 363, 376(2)(N) of the Indian Penal Code, Sections 9, 10 and 11 of the Prohibition of Child Marriage Act and Section 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

Facts in short of present application are as follows ;

2. On 20/05/2022 complainant went for work. She came to house. At that time her daughter aged 16 yrs was not in the house. She took search of her daughter. But she did not find her. Therefore she lodge complaint of kidnapping against unknown person. Police took search of the victim. But that time victim was found into the house of accused. Victim stated that they perform marriage and started residing. Thereafter there was physical relation between them. On the basis of statement of the victim Section 376(2)(n) of IPC, Section 4, 8 and 12 of the POCSO Act has been added.

3. Applicants in their application stated that they are innocent, has nothing to do with the crime. Applicant No.1 is the mother and applicant No.2 is the sister of the accused No.1. They are ready to attend the police station as and when require. There is no recovery and discovery from them. Hence prayed that application be allowed.

4. Prosecution has filed say stating that investigation as regards the persons who were present in the marriage is yet to be made with this applicant. Custodial interrogation of those applicants is necessary. Hence prayed that application be rejected.

5. Complainant has filed say stating that she has no objection for release of applicants on anticipatory bail.

6. Ld. Advocate for the accused submitted that only allegations against these applicants are in respect of Child Marriage Act. There is no recovery. No role played by this applicant. He invited my attention towards the FIR and submitted that victim herself told to the

applicant that she has attained her age of majority. Therefore they performed marriage. Hence prayed that application be allowed.

7. Ld. APP submitted that abetment is there. There are chances of tampering the witnesses. They will cause obstruction to the investigation. Hence prayed that application be rejected.

8. Upon perusal of the FIR it appears that allegations under Section 363, 376(2)(n) of IPC, Section 4, 8 and 12 of the POCSO Act are against the applicants. Only allegations against these applicants is that though victim was minor they performed her marriage with accused No.1. Upon perusal of the say filed by the I.O. it appears that there is no recovery and discovery from this applicants. Investigating officer wants to know the involvement of other persons by making interrogation with these applicants. But this can be done by keeping the attendance of these applicants in police station. For that purpose the custodial interrogation is not required. The victim stated that she is of the age of majority, therefore the record shows that this applicants performed her marriage with the accused. Except this role there is no any allegation against this applicants. Considering the role of applicant No.1 and 2 and considering the fact that custodial interrogation of the applicants is not required, there is no recovery and discovery from these applicants, in my opinion, the applicants have made out just and reasonable ground for release on anticipatory bail. Therefore their application deserves to be allowed and I pass following order:

ORDER:

1. Anticipatory Bail Application No.1845/2022 is hereby allowed.
2. In the event of arrest, the **applicants, 1. Chaya Sanjay Jadhav 2. Shivani Sudhir Tambe**, be released on anticipatory bail on each

executing P.R. Bond of Rs.20,000/- (Rupees Twenty Thousand only) with solvent surety in the like amount in C.R.No 690 of 2022 registered with **Malad** Police Station for offences punishable under Section 363, 376(2)(N) of the Indian Penal Code, Sections 9, 10 and 11 of the Prohibition of Child Marriage Act and Section 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 on the following terms and conditions :-

- a) They shall attend the **Malad** Police Station in between 11.00 am to 2.00 pm daily for the period of 15 days and thereafter once in a week till further order.
 - b) They shall co-operate the police in the investigation.
 - c) They shall not himself or through any other person contact the victim/complainant.
 - d) They shall not commit similar type of offences for which he is the accused.
 - e) They shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer.
 - i) On violation of any above conditions, anticipatory bail shall stand cancelled without intimation.
- 3) Anticipatory Bail Application No.1845/2022 is hereby disposed off accordingly.

(S. M. TAKALIKAR)
Special Judge, under the POCSO Act
Borivali (Div), Dindoshi,
Goregaon, Mumbai.

Date : 29.11.2022

Dictated on : 29.11.2022
Transcribed on : 29.11.2022
Date of sign : 30.11.2022

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER”

30.11.2022, 05.30 pm
UPLOAD DATE AND TIME

Mrs. Revati V. Kadam
NAME OF STENOGRAPHER

Name of the Judge (with Court Room No.)	HHJ Smt. S. M. TAKALIKAR ,(C.R.No.12) Addl. Judge.,City Civil & Sessions Court, Dindoshi
Date of pronouncement of /Order	29.11.2022
Order signed by P.O. on	30.11.2022
order uploaded on	30.11.2022